

# UNDERSTANDING KITNIYOS - WHAT THEY ARE, WHAT THEY AREN'T

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As is commonly known, the Torah prohibits *chometz* on Pesach, and the consequence of *chometz* consumption on Pesach is very severe. In order to distance us from the possibility of violating Torah precepts, Chazal with their supreme insight, instituted a *minhag* as a protective fence. The *minhag* to guard us from *chometz* violations is to refrain from consuming *kitniyos* on Pesach.

## WHAT ARE KITNIYOS?

*Kitniyos* are popularly defined as legumes. But what are legumes? The *Shulchan Aruch, Orach Chaim* 453, defines *kitniyos* as those products that can be cooked and baked in a fashion similar to *chometz* grains, yet are not *halachically* considered in the same category as *chometz*. Some examples are rice, corn, peas, mustard seed, and all varieties of beans (i.e., kidney, lima, garbanzo, etc.). The Torah term for the using or fermentation of barley, rye, oats, wheat, and spelt is "*chimutz*;" the term given for of *kitniyos* is "*sirchan*."

The Bais Yosef permits *kitniyos* on Pesach, while the Rama rules that *kitniyos* are forbidden. Hence, Sephardim consume *kitniyos* on Pesach while Ashkenazim follow the Rama's *psak*, which does not permit the consumption of *kitniyos* on Pesach.

The root and greens of these vegetables are not *kitniyos*; Ashkenazim only avoid the seeds.

## REASONS FOR PROHIBITION

Why are *kitniyos* forbidden for consumption on Pesach? The Mishnah Berurah enumerates a number of reasons. One reason is that there is a possibility that *chometz* grains could be mixed amongst the *kitniyos* grains, creating an inadvertent yet real *chometz* problem when the grains are cooked together. Another reason is that if *kitniyos* products would be permitted, confusion within the general public could result in mistaking permitted *kitniyos* flour and forbidden *chometz* flour. Although these might not be problems of epidemic proportions, the Rama considered them to be real enough to forbid the eating of *kitniyos* on Pesach. Sephardim check the *kitniyos* grains three times to make sure no *chometz* grains are intermixed within the *kitniyos* and then permit their use on Pesach.

The *kitniyos* restriction is not as all encompassing as *chometz*. One does not sell *kitniyos* as he would *chometz*. One may derive benefit from *kitniyos* and may use them for non-eating purposes, such as fuel for candle lighting and heating or pet food. It is important to note that in the case of medications, *kitniyos* restrictions are not applicable and pills that use corn starch as binders would be permissible for medication.

## **KITNIYOS DERIVATIVES**

There is a question amongst *poskim* as to whether *kitniyos* derivatives, such as corn oil, would be considered part of the ban and, thus, forbidden. Maybe these derivatives could be considered a separate category, “*shemen kitniyos*,” exclusive of the *kitniyos* restriction. There are additional considerations linked to peanuts and peanut oil and whether peanuts are considered to be *kitniyos*. Subsequently, peanut oil would present less of a problem than other *kitniyos* oils. Due to this *sfek sfeika*, Rav Moshe Feinstein, *zt”l*, permitted the use of peanut oil on Pesach. Nevertheless, most reputable *kashrus* agencies (in the United States and Israel) do not permit the use of *shemen kitniyos* in their products, nor do they use peanut oil.

However, over the years, products bearing a Kosher for Passover certification have used *kitniyos*-derived ingredients in their Kosher for Passover products. A common example of a *kitniyos*-derived product is corn syrup. High fructose corn syrup is one of the leading versatile sweeteners in the food industry. It is produced through a conversion process whereby the white starch of the corn kernel is converted into sugar. This is typically accomplished by using hydrochloric acid and enzymes or hydrochloric acid alone, without the assistance of enzymes. In the corn sweetener industry, enzymes are a key component in the conversion process and are commonly derived from barley, which is *chometz*. Corn syrup converted by hydrochloric acid alone would not have this *chometz* issue.

What is of great *halachic* consequence is the *halachic* perception of these “corn converted” products. Since the final product is in liquid form, it was and still is considered to be *shemen kitniyos* by some authorities. Other *poskim* posit that there is an intrinsic difference between classical *shemen kitniyos* (i.e., oil that is pressed out of the kernel) and a liquid corn syrup converted from the actual starch. The liquid is not *shemen kitniyos*; it is actual *kitniyos*.

## **KITNIYOS SHENISHTANU**

Today, food science has found multiple applications for products derived from *kitniyos*. These *kitniyos* conversions and fermentations have given rise to a new *kashrus* term, “*kitniyos shenishtanu*”, *kitniyos* that have been transformed into a new product. These converted food grade ingredients include citric acid and ascorbic acid (that have wide food applications), NutraSweet sweetener, MSG (a flavor agent in soups and spice blends), sodium citrate (found in processed cheeses), sodium erythorbate (found in deli meats), and lactic acid that is used in olive production. These corn or soy-based ingredients go through a multi-stage conversion process until the final food grade material is produced.

There is a divergence of opinions amongst *kashrus* certification agencies as to whether we permit or forbid *kitniyos shenishtanu*.

What is the reasoning for those who permit *kitniyos shenishstanu*? Interestingly, the reasoning behind permitting *kitniyos shenishstanu* is based on a different *halachic* query regarding a serious *kasbrus* concern as to whether or not a product extracted and converted from a non-kosher source could be considered kosher. The *beter* is based on the reasoning of the Chasam Sofer and the Chok Yaakov permitting the consumption of grape seed oil that was extracted from non-kosher grape seeds.<sup>1</sup>

The *Shulchan Aruch* discusses the two criteria for permitting products derived from non-kosher grape seeds: *tamdan*, washing of the seeds, and *yibush*, drying of the seeds, to a point where the seeds are dry.<sup>2</sup> This is similar to the drying of the wine sediments on the side of the cask (Weinstein),<sup>3</sup> the basic ingredient of cream of tartar.<sup>4</sup> In grape seed oil productions, the seeds are washed and dried well to contain 6-8% moisture; a kernel of raw rice by comparison contains 11% moisture. This is critical in the extraction of grape seed oil because a wet seed becomes moldy and the oil cannot be extracted from a moist seed. The question remains: Does a seed that has originally been soaked in non-kosher wine prior to washing and drying qualify for kosher grape seed oil extraction?

The *Shulchan Aruch* clearly states that grape seeds are forbidden to be used within the first 12 months of their separation from the “must”. Furthermore, the *Halacha* states that the seeds need to be washed and free of any residual wine before the 12-month count can be successful. Also, does the drying of the seeds equal a 12-month waiting period? A question was raised regarding the wine sediment which is the main ingredient of cream of tartar. Does the drying of the wine lees, the wine sediment, qualify for the 12-month waiting period? Many *halachic* authorities maintain that it does and that the oil extracted from the clean, dry seed would be *mutar*.

Another opinion in favor of grape seed oil is that the oil bears no resemblance to the original grape seed in smell, taste, color or texture.<sup>5</sup> The Chasam Sofer and the Chok Yaakov rule that since there is a complete transformation from grape seeds to oil the prohibition of disqualified grape seeds does not apply. This is based upon the ruling of Rabbeinu Yona, who maintained that a forbidden item that has undergone a complete transformation is permitted.<sup>6</sup> The Chelkas Yaakov

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1. It is interesting to note that the *shaila* was raised by the *gadol hador*, Harav Aharon Leib Shteinman, *zt”l*, in Europe during WWII, where kosher oil was scarce and the only oil available was grape seed oil.

2. *Y.D.* 123:14

3. Referring to the crystals of potassium bitartrate resulting from the process of fermenting grape juice. *Y.D.* 123:16 (See *Gilyon Maharsha* *ibid*).

4. *Y.D.* 123:16

5. *Piskei Teshuva* (*Y.D.*) 123:20

6. *Sh”UT Chelkas Yaakov* *Y.D.* S50

offers yet another reason to permit grape seed oil. Oil is contained inside the seed, and the wine is not converted into oil; therefore, it can be viewed as two separate entities.<sup>7</sup>

The fundamental reasoning of the Chasam Sofer and the Chok Yaakov permitting the newly transformed grape seed oil provides the basis for permitting *kitniyos shenishtanu*.

The reasons for permitting *kitniyos shenishtanu* are very compelling. What are the counter arguments in favor of prohibiting *kitniyos shenishtanu*? When Rabbi Moshe Heinemann, *shlit" a*, Rabbinic Administrator of the STAR-K, discussed this issue with Rabbi Yosef Shalom Eliyashiv, *zt" l*, and Rabbi Shlomo Zalman Auerbach, *zt" l*, their position was to prohibit *kitniyos shenishtanu* as a *Chumra d'Pischa*, a strict adherence to the *minhag* of prohibiting *kitniyos*. For this reason, it is STAR-K policy not to certify products containing *kitniyos shenishtanu*.

Today, with the emergence of dynamic Sephardic communities and a heightened demand for *kitniyot*-based products, more and more of these types of products are appearing on the Kosher for Passover shelves. These products declare "*lochlei kitniyot - Kosher for Passover for those who consume kitniyot on Passover*". The STAR-K has developed a KFP program for the Sephardic community and those products that may be consumed "*lochlei kitniyot*" bear a STAR-S P.

## QUINOA

It was determined that quinoa is *Kosher l'Pesach*. It is not related to millet, rice or the *chameishes minei dagan*, five types of grain products. Quinoa is a member of the amaranth family. STAR-K tested quinoa to see if it would rise. The result was *sirchan*, as termed by *Chazal*, which means the quinoa decayed and did not rise. Furthermore, quinoa's growth does not resemble *kitniyos* and, as cited in *Igros Moshe O.C. (3:63)*, we do not consider additional products beyond what was originally established. However, recent investigations have found that there is a possibility that quinoa grows in proximity to certain grains and/or is processed in facilities that compromise Kosher for Passover status. Therefore, quinoa may be used on Pesach only with reliable Kosher for Passover approval.

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